

EXHIBIT

1

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

ABIGAIL NOEL FISHER and
RACHEL MULTER MICHALEWICZ,
Plaintiffs,

CIVIL ACTION NO. 1:08-CV-00263-SS

v.

STATE OF TEXAS; UNIVERSITY OF
TEXAS AT AUSTIN; *et al.*,
Defendants.

DEFENDANTS' RESPONSES TO PLAINTIFFS' INTERROGATORIES 1 THROUGH 5

TO: Plaintiffs, Abigail Noel Fisher and Rachel Multer Michalewicz, by and through their attorney of record, Paul M. Terrill III, The Terrill Firm, P.C., 810 West 10th Street, Austin TX 78701

Defendants University of Texas at Austin ("UT-Austin"), Mark G. Yudof, David B. Pryor, William Powers, Jr., Board of Regents of the Texas State University System, John W. Barnhill, Jr., H. Scott Caven, Jr., James R. Huffines, Janiece Longoria, Colleen McHugh, Robert B. Rowling, James D. Dannenbaum, Paul Foster, Printice L. Gary, and Bruce Walker ("Defendants") answer Plaintiffs' Interrogatories 1 through 5 as follows:

OBJECTIONS TO INSTRUCTIONS

Defendants make the following objection to Plaintiffs' instructions, which are incorporated by reference into each Answer to each Interrogatory.

1. Defendants object to the Interrogatories to the extent that they request information protected by the attorney-client or work product privilege.

Defendants' Response to Plaintiffs' Interrogatories 1 through 5

ANSWERS TO INTERROGATORIES

INTERROGATORY NO. 1:

List each data element used to calculate the “pgpa” described in paragraph 3 of the affidavit of Kedra B. Ishop filed in this case. For each listed element, explain how its numerical value is derived.

RESPONSE TO INTERROGATORY NO. 1:

The elements used to calculate an applicant’s PGPA depend on whether the applicant took the SAT or the ACT. For fall 2008 applicants who took the SAT, the elements used to calculate PGPA for the freshman year at UT-Austin are the SAT Critical Reading Score (“SAT CR”), the SAT Mathematics Score (“SAT M”), the applicant’s class rank, and a possible addition of .1 for exceeding UT-Austin’s high school coursework requirements. For applicants who took the ACT, the elements used to calculate PGPA are ACT English (“ACT E”), ACT Math (“ACT M”), the applicant’s class rank, and a possible addition of .1 for exceeding UT-Austin’s high school requirements. The SAT and ACT scores are reported to UT-Austin by the entities that administer those examinations. High School Rank (“HSR”) is the student’s percentile rank within the student’s graduating class. HSR is computed as: $[1 - (\text{class rank} / \text{class size})] * 100$.

INTERROGATORY NO. 2:

Explain, by formula/equation or otherwise, how the data elements listed in response to Interrogatory No. 1 are combined to derive the “pgpa” for an individual student.

RESPONSE TO INTERROGATORY NO. 2:

Multiple regression equations are used for predicting an applicant’s PGPA. These equations

differ across various schools and majors at UT-Austin and are shown below for each school.

For Liberal Arts, Communications, Fine Arts, Social Work, and Education:

$$\text{PGPA} = -0.19949 + (\text{SAT CR} * 0.00142) + (\text{SAT M} * 0.00191) + (\text{HSR} * 0.01459)$$

$$\text{PGPA} = 0.09689 + (\text{ACT E} * 0.02513) + (\text{ACT M} * 0.04577) + (\text{HSR} * 0.01351)$$

For Nursing, Natural Sciences, Architecture, and Geosciences:

$$\text{PGPA} = -1.10339 + (\text{SAT CR} * 0.00088166) + (\text{SAT M} * 0.00230) + (\text{HSR} * 0.02416)$$

$$\text{PGPA} = -0.51242 + (\text{ACT E} * 0.00824) + (\text{ACT M} * 0.05007) + (\text{HSR} * 0.02199)$$

For Engineering:

$$\text{PGPA} = -1.53545 + (\text{SAT CR} * 0.00072937) + (\text{SAT M} * 0.00313) + (\text{HSR} * 0.02285)$$

$$\text{PGPA} = -1.78910 + (\text{ACT E} * 0.01074) + (\text{ACT M} * 0.07335) + (\text{HSR} * 0.02708)$$

For Business:

$$\text{PGPA} = -2.31253 + (\text{SAT CR} * 0.00157) + (\text{SAT M} * 0.00229) + (\text{HSR} * 0.03419)$$

$$\text{PGPA} = -2.14521 + (\text{ACT E} * 0.02892) + (\text{ACT M} * 0.05405) + (\text{HSR} * 0.03409)$$

(For applicants submitting both ACT and SAT scores the highest PGPA is used.)

INTERROGATORY NO. 3:

Provide the "pgpa" calculations for Ms. Fisher and Ms. Michalewicz as described in paragraph 18 of the affidavit of Kedra B. Ishop filed in this case.

RESPONSE TO INTERROGATORY NO. 3:

Ms. Fisher's PGPA for Business was calculated as 3.038; her PGPA for Liberal Arts was

calculated as 3.093. Ms. Fisher's AI is 3.1. Her AI of 3.1 reflects the sum of her Liberal Arts PGPA (3.093) plus .1 for exceeding UT Austin's minimum high school coursework requirements.

Ms. Michalewicz's PGPA for business was calculated as 3.202; her PGPA for Liberal Arts was calculated as 3.234. Ms. Michalewicz's AI is 3.3. Her AI of 3.3 reflects the sum of her Liberal Arts PGPA (3.234) plus .1 for exceeding UT Austin's minimum high school coursework requirements.

INTERROGATORY NO. 4:

For the UT fall class of 2008, provide the following information: Total number of students admitted; total number of African-American students admitted; total number of Hispanic students admitted; total number of Caucasian students admitted; total number of all other students admitted.

For each total provided, specify the number admitted under the "Top 10" law and outside the "Top 10" law.

RESPONSE TO INTERROGATORY NO. 4:

Defendants object to this Interrogatory because it cannot be answered due to the separation of the fall class and summer class. Subject to this objection, Defendants state that it is the policy of UT-Austin to admit HB588 applicants to the fall semester. However, some HB588 applicants apply directly to the summer program with the intent of attending Summer I and/or Summer II or may request to be admitted to the summer freshman class. The 58 students listed as summer admits under HB 588 fall into one of these scenarios.

The admissions statistics requested are:

			HB588 Auto Admit			
Semester Applied	F04 Admit Decision	Race	No	Yes	Grand Total	
Summer Freshman	20086 ADMIT	Not Reported	4	1	5	
		AMERICAN INDIAN	7		7	
		ASIAN AMERICAN	211	8	219	
		BLACK	80	5	85	
		FOREIGN	32	2	34	
		HISPANIC	236	16	252	
		WHITE	863	26	889	
		ADMIT Total	1433	58	1491	
20086 Total			1433	58	1491	
Fall Semester	20089 ADMIT	Not Reported	9	4	13	
		AMERICAN INDIAN	12	30	42	
		ASIAN AMERICAN	351	1732	2083	
		BLACK	46	576	622	
		FOREIGN	266	242	508	
		HISPANIC	165	2205	2370	
		WHITE	1262	4428	5690	
		ADMIT Total	2111	9217	11328	
20089 Total			2111	9217	11328	
Grand Total			3544	9275	12819	

INTERROGATORY NO. 5:

For the UT Summer Freshman Class (“SFC”) of 2008, provide the following information: Total number of students admitted; total number of African-American students admitted; total number of Hispanic students admitted; total number of Caucasian students admitted; total number of all other students admitted. For each total provided, specify the number admitted under the “Top 10” law and outside the “Top 10” law.

RESPONSE TO INTERROGATORY NO. 5:

Defendants object to this Interrogatory because it cannot be answered due to the separation of the fall class and summer classes. Subject to this objection, Defendants refer Plaintiffs to their Response to Interrogatory No. 4.

Respectfully submitted,

GREG ABBOTT
Attorney General of Texas

KENT C. SULLIVAN
First Assistant Attorney General

DAVID S. MORALES
Deputy Attorney General for Litigation

JAMES C. HO
Solicitor General

ROBERT B. O'KEEFE
Chief, General Litigation Division

RYAN CLINTON
Assistant Solicitor General

Mishell B. Kneeland
MISHELL B. KNEELAND
Texas Bar No. 24038256
MARINA GRAYSON
Texas Bar No. 24042098
Assistant Attorneys General
General Litigation Division
P.O. Box 12548, Capitol Station
Austin, Texas 78711-2548
mishell.kneeland@oag.state.tx.us
512-475-4099
512-320-0667 fax
ATTORNEYS FOR DEFENDANTS

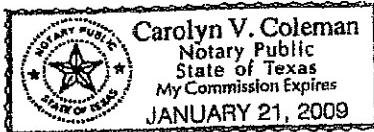
STATE OF TEXAS §
TRAVIS COUNTY §

VERIFICATION

On this day, Gary M. Lavergne appeared before me, the undersigned notary public. After I administered an oath to him, he said that he had read Defendants' Response to Plaintiffs' Interrogatories 1 through 5, and that the facts stated in it are within his personal knowledge and are true and correct.

Gary M. Lavergne
(Name of affiant)

SWORN TO and SUBSCRIBED before me by {name of affiant} on May 14, 2008.



Carolyn V. Coleman
Notary Public in and for
the State of Texas

CERTIFICATE OF SERVICE

I certify that a copy of foregoing document has been sent by First Class U.S. Mail and e-mail on this the **14th day of May, 2008**, to the following individuals at the listed addresses:

Bert W. Rein
David C. Rybicki
Thomas R. McCarthy
Wiley Rein LLP
1776 K Street, NW
Washington, DC 20006
brein@wileyrein.com
drybicki@wileyrein.com
tmccarthy@wileyrein.com

Paul M. Terrill
The Terrill Firm, PC
810 West 10th Street
Austin, TX 78701
pterrill@terrill-law.com

Mishell B. Kneeland
Mishell B. Kneeland
Assistant Attorney General